

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

XAVIER MICHAEL MAGANA,

Petitioner,

v.

RONALD HAYNES,

Respondent.

Case No. 3:22-cv-05682-LK-TLF

ORDER GRANTING MOTION TO  
STAY AND ABEY

This matter is before the Court on petitioner's motion to stay. Dkt. 35.

Respondent has not filed a response.

This matter was previously stayed due to petitioner's ongoing state proceedings. See Dkt. 13. However, on January 8, 2025, based on respondent's representation that state court proceedings were complete, the Court issued an order lifting the stay and setting a briefing schedule. Dkt. 34.

Petitioner has presented more information, and moves again to stay proceedings. Dkt. 35. Petitioner represents that his state court proceedings are ongoing. *Id.* He indicates his state court proceedings have been remanded to the trial court to conduct a hearing. *Id.*

The respondent did not file opposition to the request to stay or otherwise respond to the motion.

1 District courts may use a “stay-and-abeyance” procedure while a petitioner  
2 exhausts claims in state court. *Rhines v. Weber*, 544 U.S. 269, 275-77 (2005); *Calderon*  
3 *v. United States District Court (Taylor)*, 134 F.3d 981, 988 (9th Cir.1998).

4 Here, petitioner asserts ongoing proceedings are happening in state court that  
5 could render his federal habeas petition moot. Dkt. 35.

6 After reviewing the relevant record, the court concludes petitioner’s motion  
7 should be granted. The Court ORDERS as follows:

- 8 1. Petitioner’s motion to stay (Dkt. 35) is GRANTED. This case is stayed.
- 9 2. Because petitioner is incarcerated and proceeding *pro se*, respondent is  
10 directed to file a report every ninety (90) days informing the Court of the  
11 status of petitioner’s state proceedings. The first status report is due on or  
12 before **May 15, 2025**, and shall include the state court cause number.
- 13 3. If the state court dismisses or resolves petitioner’s state court proceedings,  
14 petitioner is directed to inform the Court and file a motion to lift the stay within  
15 30 days of the state court taking action.
- 16 4. Respondent shall file his answer to the petition (in accordance with Rule 5 of  
17 the Rules Governing Section 2254 Cases) 45 days after the Court enters an  
18 order lifting the stay.
- 19 5. The briefing schedule set in this Court’s January 8, 2025 order is hereby  
20 vacated.

1 Dated this 19th day of February, 2025.

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4 Theresa L. Fricke  
5 United States Magistrate Judge  
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